

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Case No. 08-13555-scc
4 - - - - - x
5 In re
6 LEHMAN BROTHERS HOLDINGS, INC., et al.,
7 Debtors.
8 - - - - - x
9 Case No. 08-01420 (SCC)(SIPA)
10 - - - - - x
11 In re
12 LEHMAN BROTHERS INC.,
13 Debtor.
14 - - - - - x
15
16 U.S. Bankruptcy Court
17 One Bowling Green
18 New York, NY 10004
19 February 23, 2016
20 10:14 AM - 11:49 AM
21
22 B E F O R E :
23 HON SHELLEY C. CHAPMAN
24 U.S. BANKRUPTCY JUDGE
25

1 HEARING re: 1. Plan Administrator's Objection to Claim of
2 Morgan Stanley Bank International limited (Claim No. 21866)
3 [ECF No. 51875]
4

5 HEARING re: 2. Motion of Fondo De Proteccion Social De Los
6 Depositos Bancarios for Substitution of Counsel and to
7 Designate Homer Bonner Jacobs as Agent for Receipt of all
8 Distributions [ECF No. 51969]
9

10 HEARING re: 3. Nineteenth Application of Hughes Hubbard &
11 Reed LLP for Allowance of Interim Compensation for Services
12 Rendered and Reimbursement of Actual and Necessary Expenses
13 Incurred from May 1, 2015 through August 31, 2015 [LBI ECF
14 No. 13104]
15

16 HEARING re: 4. Motion of Fondo De Proteccion Social De Los
17 Depositos Bancarios for Substitution of Counsel and to
18 Designate Homer Bonner Jacobs as Agent for Receipt of all
19 Distributions [LBI ECF No. 13309]
20

21 HEARING re: 5. Trustee's Motion for an Order Regarding
22 Certain Repurchase Agreement Claims [LBI ECF No. 12194]
23
24
25

1 HEARING re: 6. Objection to Transfer of Claim #787 to
2 Claims Recovery Group LLC, filed by Frank H. Carraway [LBI
3 ECF No. 13229]
4

5 HEARING re: 7. Lehman Brothers Special Financing Inc. v.
6 Federal Home Loan Bank of Cincinnati [Adversary Proceeding
7 No. 13-01330]
8

9 HEARING re: 8. Allied World Assurance Company v. LB Rose
10 Ranch LLC [Adversary Proceeding No. 15-01128]
11

12 HEARING re: 9. Lehman Brothers Special Financing Inc. et al
13 v. Sequa Corporation [Adversary Proceeding No. 15-01404]
14

15 HEARING re: Lehman Brothers Special Financing Inc. v.
16 Federal Home Loan Bank of Cincinnati
17 Discovery Conference
18

19 HEARING re: Allied World Assurance Company (U.S.) Inc. v.
20 LB Rose Ranch LLC et al
21 Doc #19 Motion To Dismiss For Lack Of Jurisdiction Or In The
22 Alternative, Motion To Abstain
23

24 HEARING re: Allied World Assurance Company (U.S.) Inc. v.
25 LB Rose Ranch LLC et al Pretrial Conference

1 HEARING re: Lehman Brothers Special Financing Inc. et al v.
2 Sequa Corporation Pre-trial Conference

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25 Transcribed by: Sonya Ledanski Hyde

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1 P R O C E E D I N G S

2 THE COURT: Sorry for the interruption. Hopefully
3 it woke everybody up. How are you today?

4 MS. ARTHUR: Very good. Good morning, Your Honor.

5 THE COURT: Good morning.

6 MS. ARTHUR: For the record, Candace Arthur, Weil,
7 Gotshal & Manges on behalf of Lehman Brothers Holdings Inc.
8 and certain of its affiliates. Your Honor, in regards to
9 Chapter 11 cases, we have a brief agenda, two items which
10 were listed as uncontested.

11 In connection with the first item, the plan
12 administrator's objection to the claim filed by Morgan
13 Stanley Bank International, that matter has been adjourned.
14 And in connection with the second matter, the motion
15 pertaining to the request for a substitution of counsel, as
16 well as the defamation of aiding to receive all
17 distributions, a certificate of no objection has been filed
18 in connection with that matter.

19 THE COURT: All right.

20 MS. ARTHUR: Your Honor, I will conclude the
21 matters under Lehman Brothers Holdings Inc. Chapter 11
22 cases.

23 THE COURT: All right.

24 MS. ARTHUR: And with your permission, I will turn
25 the lectern over for the LBI proceedings to begin.

1 THE COURT: Okay, thank you. Good morning.

2 MR. KOBAK JR.: Good morning, Your Honor.

3 THE COURT: How are you?

4 MR. KOBAK JR.: James Kobak, Hughes Hubbard & Reed
5 for the trustee. Your Honor, I'd --

6 THE COURT: Could I ask -- excuse me -- could I
7 ask the folks on the phone to put your phone on mute,
8 please? Thank you. Go ahead.

9 MR. KOBAK JR.: Your Honor, if it's all right with
10 Your Honor, I think we'll begin with our fee application.

11 THE COURT: Okay.

12 MR. KOBAK JR.: This is our 19th interim fee
13 application. It covers the four month period, May through
14 August of 2015. No objections have been filed to this
15 application. SPIC has filed a statement in support, and Mr.
16 Caputo of SIPC is in Court today. During this period, we
17 expended over 13,000 hours of which 220, approximately, were
18 spent by the trustee.

19 In addition to our fees, we request a total amount
20 of expenses of \$73,661.64. As I said, SIPC supports the
21 allowance of the fees and expenses, subject to deductions.
22 And their recommendation, of course, is entitled to
23 considerable reliance. As you know, our firm provides a 10
24 percent public interest discount, which is reflected in the
25 application.

1 In addition to that, we voluntarily adjusted our
2 fees by over \$250,000, and a few thousand dollars more after
3 review by SIPC, and also, reduced expenses by approximately
4 \$50,000.

5 During this period, the main accomplishments were
6 submitting our application for distribution to the general
7 estate of 10 percent, which brought people to 35 percent and
8 that brought the amount -- or the amount distributed, and
9 that distribution has been \$1.89 billion.

10 We also, as Your Honor will recall, settled
11 remaining disputes with Barclay's, which resulted in \$563
12 million being released from reserve to be put into the
13 general estate.

14 We had very active claim litigation, both before
15 Your Honor, before several district court judges and in a
16 couple of cases before the Second Circuit. So Your Honor,
17 we'd ask that you approve the application.

18 THE COURT: All right. Does anyone wish to be
19 heard with respect to the 19th application for the allowance
20 of compensation to the Hughes Hubbard firm?

21 All right, thank you very much. I -- as I always
22 do, appreciate all of the hard work that goes into moving
23 through these cases. Can you, while you're here, give us a
24 sense of how close you feel that you are, dare I say, to the
25 finish line?

1 MR. KOBAK JR.: Yeah, I was afraid to be asked
2 that question, Your Honor. We have -- really what we have
3 remaining to do is to work through the remaining claims.
4 There are approximately I think 465 of those. That's a
5 little misleading because three quarters of them, 330, I
6 think, are represented by the ESEP claims, which are
7 basically a group.

8 So it's really a function of how long it will take
9 to complete those litigations. Still some that are before
10 Your Honor, many of them now are in the district court --

11 THE COURT: Up on appeal, right.

12 MR. KOBAK JR.: And a few were on appeal to the
13 Second Circuit, and even in one or two cases, on cert to the
14 Supreme Court. So I'm afraid I can't give you a better
15 answer than that.

16 THE COURT: Fair enough, all right.

17 MR. KOBAK JR.: Thank you, Your Honor.

18 THE COURT: Thank you very much. All right. Now
19 we also had the FOGADE matter. I think there was no
20 objection to that.

21 MR. SCHWARTZ: Adam Schwartz on behalf of Homer
22 Bonner Jacobs on behalf of FOGADE, Your Honor. Yes, there's
23 no filed objection to the motion.

24 THE COURT: Yes.

25 MR. WEINICK: Erik Weinick of Otterbourg, co-

1 counsel of Mr. Schwartz on behalf of the FOGADE. I believe
2 there's a moral objection to this, that's being attempted to
3 be made.

4 THE COURT: Okay. Thank you.

5 MS. COLOMAR-GARCIA: Yes, good morning, Your
6 Honor.

7 THE COURT: Good morning.

8 MS. COLOMAR-GARCIA: This is Marta Colomar from
9 Diaz, Reus. We did not file any written objection because
10 we were waiting for instructions from our clients.

11 THE COURT: I'm sorry. I'm going to ask you to
12 start over again. Could you?

13 MS. COLOMAR-GARCIA: Yes.

14 THE COURT: Speak up a little bit?

15 MS. COLOMAR-GARCIA: My name is Marta Colomar.

16 THE COURT: Yes.

17 MS. COLOMAR-GARCIA: From Diaz, Reus, which is the
18 law firm that -- this new law firm is starting to
19 substitute.

20 THE COURT: Yes.

21 MS. COLOMAR-GARCIA: We represent the FOGADE for a
22 number of years. We were waiting for instructions from our
23 clients on whether to file objections or not file written
24 objections to the motion for substitution of counsel. We
25 have not gotten any of those instructions yet.

1 THE COURT: But it's FOGADE, is that the way you
2 say it, FOGADE?

3 MS. COLOMAR-GARCIA: FOGADE, yes.

4 THE COURT: It -- but it's FOGADE's motion to
5 replace the Diaz firm.

6 MS. COLOMAR-GARCIA: I understand, Your Honor. We
7 have not received any instructions as one way or the other.
8 That's why we did not consent to the motion for substitution
9 of counsel. If the Court is inclined to grant it, we
10 suggest that we stay as co-counsel until we receive specific
11 instructions from the client. We have not been terminated.
12 We have not -- and this has happened in the past, Your
13 Honor. We have had another law firm that tried to act on
14 behalf of FOGADE, and (indiscernible) --

15 THE COURT: Well, the motion says that FOGADE
16 informed the Diaz firm of its termination by letter by
17 January 29th letter.

18 MS. COLOMAR-GARCIA: We have no communication from
19 our client, from FOGADE telling us that we were terminated.
20 We do not.

21 THE COURT: Mr. Jacobs? Mr. Schwartz?

22 MR. SCHWARTZ: Your Honor, Adam Schwartz on behalf
23 of FOGADE. To clarify, one, the Diaz firm did receive a
24 letter from the International Head of Litigation for FOGADE,
25 advising them that their services were no longer required or

1 wanted on this matter.

2 Secondly, Your Honor, this Saturday, I believe,
3 Mr. Diaz, who is the President of the firm, actually sat
4 down and met with the President of FOGADE, Dr. Socorro,
5 whose affidavit is appended to our motion. And she advised
6 him in no uncertain terms that their services would no
7 longer be needed in this matter.

8 THE COURT: All right, thank you for that
9 clarification.

10 Well, to the extent that putting aside the fact
11 that the objection deadline has passed, I will simply view
12 your appearing here today as seeking absolute clarification
13 that you were not acting in any way in an unauthorized
14 fashion in representation of your client, but the motion
15 will be granted, all right?

16 MS. COLOMAR-GARCIA: Thank you.

17 THE COURT: All right? Okay, thank you.

18 MS. COLOMAR-GARCIA: Thank you, Your Honor.

19 MR. WEINICK: May I be excused?

20 MR. SCHWARTZ: Thank you, Your Honor.

21 THE COURT: Yes.

22 MR. WEINICK: Thank you.

23 THE COURT: Thank you. All right, I think that
24 brings us to the motion regarding the repurchase claims.
25 Perhaps we should -- all right. We can proceed with this

1 one. Is anyone else here?

2 MR. HOFFMAN: Should I state my appearance right
3 now?

4 THE COURT: Sure.

5 MR. HOFFMAN: David Hoffman, One Whitehall Street,
6 New York, New York for Hipotecas de America, S.A.

7 THE COURT: All right, thank you.

8 MR. HOFFMAN: Good morning, Your Honor.

9 THE COURT: That's the fire truck that didn't have
10 to come here.

11 MR. SALZMAN: 20 minutes late. I'm Michael
12 Salzman from Hughes Hubbard and Reed on behalf of the SIPA
13 trustee. There was a pending motion to reclassify repo
14 claims as general creditor claims, rather than customer
15 claims. The Second Circuit has ruled in a test case that
16 indeed, repo claims are a general creditor and not customer
17 in connection with that. Test case litigation, we then
18 brought a motion to reclassify a number of claims.

19 All the other claimants have stipulated in one
20 fashion or another that whatever happens with that test case
21 involving carve-out would be binding on them. One claimant
22 has declined any such stipulation, and that's Hipotecas.
23 Hipotecas opposed the motion, filed a substantive
24 opposition, 31 pages in length with three declarations, and
25 also sought discovery.

1 We entered into a stipulation with Hipotecas,
2 which was so ordered by Your Honor, providing for 90 days of
3 discovery. And after that 90 days had passed, that we would
4 appear before Your Honor at a status conference to seek a
5 schedule for the completion of supplemental briefing invited
6 at discovery.

7 The stipulation provided that both sides would
8 have the opportunity to brief anything learned in that
9 discovery period, plus opposition to the papers that had
10 previously been filed. We are here today pursuant to that
11 stipulation to seek a briefing schedule for the completion
12 of the briefing. Before today, we sought to have an
13 agreement with Hipotecas as to what the briefing schedule
14 might be.

15 And it was at that time approximately two weeks
16 ago that we were informed that Hipotecas, as of then, was
17 seeking depositions now at a time. We wrote a letter to the
18 Court. We have not heard from closing counsel since then,
19 or to my understanding has the Court been advised as to the
20 position of Hipotecas. But I'm assuming that they persist
21 in the view that they want to be taking depositions.

22 We would oppose that. They're out of time.
23 There's no reason to take depositions, as we can assert the
24 decision on this point is categorical, it says. Repos
25 simply are not general creditor claims. If you -- if your -

1 - are not customer claims. They're general creditor claims.
2 The Hipotecas has conceded that indeed, the transactions it
3 entered into are repos, and did that in its opposition
4 papers.

5 And so, taking that all together, we would ask
6 Your Honor to please enter an order with this briefing
7 schedule we had proposed in our letter March 8th for any
8 paper Hipotecas wants to put in at this point, and then 30
9 days for us to file a -- an opposition.

10 THE COURT: All right.

11 MR. SALZMAN: Thank you, Your Honor.

12 THE COURT: Thank you. Good morning.

13 MR. HOFFMAN: Good morning, Your Honor. Just a
14 little -- Mr. -- if you read Mr. Salzman's letter, he says,
15 "Well, discovery was closed on December 7th." And I did
16 make a document request to the Trustee, and on December
17 16th, I wrote to Ms. Walker, his associate, and I asked when
18 the Trustee was going to produce its documents. And she
19 said, "Well, we already produced those to you on the 4th of
20 December."

21 And I said, "Well, I haven't received them.
22 Perhaps they've been mislaid or misdirected in my office."
23 And I'd asked for a second copy of those papers. And she
24 came back to me on the 22nd of December at 5:00 o'clock and
25 said she was not in the office, but she would arrange to

1 have a second, a copy made for me. And I myself was was
2 leaving come the next day and be out the next week, so I
3 said, "I'll pick up a copy after the new year," which --

4 THE COURT: Okay. What does this have to do with
5 anything?

6 MR. HOFFMAN: Well, he's saying that I -- well,
7 the discovery order says, "Except for good cause shown." So
8 he put -- he gave me his documents, even as I didn't receive
9 them, on the day before the end of the discovery period.

10 Now how am I supposed to review those documents
11 and then do the depositions, if it's given to me on a
12 Friday, December 4th, when he's saying the discovery period
13 is done on Monday December 7th.

14 THE COURT: Well, what was -- were depositions
15 part of contemplating the discovery order?

16 MR. HOFFMAN: They were certainly contemplated in
17 the discovery order in Paragraph Six.

18 THE COURT: Could you hand me a copy, please?

19 MR. HOFFMAN: Thank you.

20 THE COURT: So when did you say you finally
21 received the documents?

22 MR. HOFFMAN: I received them on January 7th.

23 THE COURT: Okay.

24 MR. HOFFMAN: I had an email exchange with Ms.
25 Walker on -- two weeks later, and I said I would like --

1 they said, "We'd like to put it on the calendar." And I
2 said, "Well, let's have a conference first," in which I
3 intended to bring up the issue of the depositions. They
4 suggested the date of I think February 9th, is when we did
5 have a telephone conference then.

6 And at that time, I -- Mr. Salzman said, "Oh my
7 god, the first I've ever heard of depositions. Oh my god.
8 We can't have that." I do have another problem with the
9 briefing schedule, Your Honor, but I'll leave that to a
10 moment later. But you could see that --

11 THE COURT: What is it about the repos at issue
12 here that you believe takes it outside the contours of
13 carve-out?

14 MR. HOFFMAN: What is it?

15 THE COURT: Yes.

16 MR. HOFFMAN: Well, first of all, our statements
17 all said that the securities were held at Lehman Brothers.
18 That language is identical to other brokerage statements
19 that have all received customer status. In other words, our
20 statements don't look like the statements that were in
21 carve-out, where it was blank.

22 And if you read, especially Judge Peck's opinion
23 that was affirmed, he says, "Your statement says you don't
24 have any holdings." There was a holding section. Our says,
25 "Holdings," it says, "Your securities are held at Lehman

1 Brothers." Okay?

2 There's also a difference in that, first of all,
3 it -- the other difference is that my client -- it was
4 really more like a margin account, their retail customers.
5 It was only like, approximately \$3 million worth of bonds
6 that they put \$2 million up for, and then they -- the way it
7 works out, and I -- is that they were able to buy \$3 million
8 worth of bonds with \$2 million in cash.

9 In other words, it was a really a margin account.
10 I know everyone says, "Repo's (indiscernible) loans. You
11 get these, it's all this institutional clients and it's U.S.
12 Treasuries and it's this tiny haircuts and all that stuff."
13 None of that is true in our case, none of that is true.

14 We have like, a 66 percent haircut. We have
15 retail customers. We have Latin American corporate bonds,
16 which are not part -- none of these things that are true for
17 all those other entities that went through the test
18 (indiscernible), I have been a starch -- in starch
19 opposition to referring to these as test cases, because
20 there was no procedure at all to the term of whether or not
21 those were typical of anybody else's claims. That was him
22 picked by the trustee. Be that as it may, I was here on the
23 25th of January, 2012 to tell Judge Peck that I wanted my
24 own case.

25 THE COURT: Well, you had your own case.

1 MR. HOFFMAN: And I had my own case. And he said,
2 "You'll have the full chance to litigate that." My
3 discovery was originally served -- I originally served
4 discovery demands in 2011, never got a response to those.
5 Their motion was made without, you know, consultation with
6 me, without a chance to take discovery before they made
7 their motion. I made a very limited amount of requests.

8 THE COURT: Well, let me ask you this. What the -
9 -

10 MR. HOFFMAN: But the difference is -- I'm sorry -
11 -

12 THE COURT: Now that you have the documents, what
13 depositions would you like to take?

14 MR. HOFFMAN: I'd like to take Mr. (indiscernible)
15 deposition.

16 THE COURT: And who is he?

17 MR. HOFFMAN: He's a gentleman that worked at
18 Lehman Brothers that they'd used several times in the case.
19 He's -- I believe he may be on retainer with the Trustee or
20 -- he's done a lot of work.

21 THE COURT: Is that the only deposition?

22 MR. HOFFMAN: That's what I would like to have.
23 And it -- Your Honor, the problem is, this was very -- a lot
24 of this is very technical stuff with these internal
25 documents, and it's very difficult to make them out, what's

1 going on in them without the expertise that the -- only the
2 Trustee has access to all the old Lehman Brothers people,
3 not me. Okay? And I need --

4 THE COURT: Have you identified this individual as
5 someone that you believe can provide useful information to
6 you?

7 MR. HOFFMAN: Yes, he was one of the people that
8 provided affidavits in the so-called test cases.

9 THE COURT: Are you taking the position that the
10 documents are not clear on its face, and therefore, I am
11 going to have to look at evidence other than the documents
12 themselves? Because those are the general rules, right?
13 When the documents are clear on their face, there's no
14 resort to parallel evidence.

15 MR. HOFFMAN: Well --

16 THE COURT: So is part of your case going to be
17 that there's a --

18 MR. HOFFMAN: There's a slight difference. My
19 understanding is -- and what I understand from the
20 production of the Trustee, and in their sort of rebuttal to
21 my point that mine says that the securities were held at
22 Lehman Brothers. And those guys didn't have that, okay?
23 Their rebuttal to that is that we were on some other
24 reporting systems.

25 THE COURT: Okay, but that you should understand

1 that both in the repo context and in many other contexts --

2 MR. HOFFMAN: Yes.

3 THE COURT: -- there are documents that say that
4 securities are quote unquote "held at Lehman Brothers." And
5 those are not magic words that necessarily give rise to a
6 customer claim. There are --

7 MR. HOFFMAN: True.

8 THE COURT: -- decisions in the repo context and
9 outside of the repo context in which those magic words are
10 not as magic as they seem. So --

11 MR. HOFFMAN: Yeah.

12 THE COURT: I don't want to cut off your rights,
13 but you seem to be going back to those words, and that
14 doesn't necessarily -- isn't necessarily going to be
15 dispositive.

16 MR. HOFFMAN: Well, I appreciate that. I -- you
17 know, I have other arguments. I mean, as Mr. Salzman
18 mentioned, my brief was 31 pages long. I think I have more
19 ammunition than that.

20 THE COURT: All right, so you want one deposition,
21 and then we're going to go have a briefing schedule, yes?

22 MR. HOFFMAN: Yes. And I do have a problem with
23 the briefing schedule, (indiscernible).

24 THE COURT: Well, let me go back to Mr. Salzman.
25 Mr. Salzman, can we do the one deposition?

1 MR. SALZMAN: If that's agreeable to Mr.
2 (indiscernible). You know who he is and he -- we could make
3 him available.

4 THE COURT: Quickly, yes?

5 MR. SALZMAN: I believe so.

6 THE COURT: Okay. So what's the problem with the
7 briefing schedule?

8 MR. HOFFMAN: Well, my understanding is that I
9 have the burden of proof as to customer status.

10 THE COURT: Yes.

11 MR. HOFFMAN: And you know, my understanding is
12 that I should get the last word. In other words, they
13 shouldn't have the chance to make an initial brief and a
14 reply if they're not the ones with the burden of proof. Now
15 that might be okay in a summary judgment context because the
16 law makes the presumption that the facts are going the other
17 way. In this context, I have the burden of proof. I expect
18 it's going to be decided on papers. I should have the last
19 word.

20 THE COURT: So you want to go first?

21 MR. HOFFMAN: Well, we've already gone once each.

22 THE COURT: Who went first?

23 MR. HOFFMAN: They went first.

24 THE COURT: Okay.

25 MR. SALZMAN: We made a omnibus motion --

1 THE COURT: And made --

2 MR. SALZMAN: -- (indiscernible) numerous people.

3 THE COURT: Okay, to reclassify, as a general
4 claim.

5 MR. SALZMAN: Exactly.

6 THE COURT: Right? And you opposed?

7 MR. HOFFMAN: And I opposed it, yes.

8 THE COURT: Okay. And now we've had to look on
9 (indiscernible) complete this discovery.

10 MR. HOFFMAN: Now they want me to go again. What
11 their proposed schedule is, I go again, and then they get to
12 knock me out of the park by having, you know, clean me out.
13 Okay, so I go twice in the middle, which I don't want that,
14 and I think that's not correct from a due process
15 standpoint. If I have the burden of proof, I go first, I go
16 last. And maybe I don't -- didn't get -- maybe I didn't get
17 to go first, but I go last.

18 THE COURT: Well, let me ask you this question.
19 Let me ask you this question. There's going to be
20 discovery.

21 MR. HOFFMAN: Yes.

22 THE COURT: All right, more discovery, right?

23 MR. HOFFMAN: Yes.

24 THE COURT: And now, what should happen next?

25 Should you have to say why what you found in discovery means

1 you win?

2 MR. HOFFMAN: Yes, I should, but I would like to
3 see --

4 THE COURT: Okay.

5 MR. HOFFMAN: -- their -- I mean I don't know if
6 there's --

7 THE COURT: Okay, let's make this simple, okay?
8 Let's make this simple. Okay? You're going to do the
9 discovery, okay?

10 MR. HOFFMAN: Yes.

11 THE COURT: Then I think it's incumbent upon you
12 to say why what you discovered means you win. And they're
13 going to reply to that. And then you can sur-reply.

14 MR. HOFFMAN: Okay.

15 THE COURT: All right? But we're going to put
16 page limits on it.

17 MR. HOFFMAN: Page limits?

18 THE COURT: Page limits, I'm not interested in
19 reading, with all due respect, two more 30 page briefs.

20 MR. HOFFMAN: Okay.

21 THE COURT: That you submit, okay?

22 MR. HOFFMAN: Okay. I mean, just to be clear,
23 Your Honor, I'm not saying that my -- my main argument's
24 already in

25 THE COURT: Sure.

1 MR. HOFFMAN: There's things in the discovery that
2 I'm hope -- that in the documents I have, and hopefully from
3 Mr. (indiscernible) that bolsters it.

4 THE COURT: Okay. But then the next round --

5 MR. HOFFMAN: Okay.

6 THE COURT: -- should be limited strictly to that,
7 right, not duplicate what's already been said.

8 MR. HOFFMAN: Exactly. Fine.

9 THE COURT: Okay? All right. So can you agree on
10 a schedule or do you want to --

11 MR. HOFFMAN: It depends on how quickly Mr.
12 (indiscernible) can be made available.

13 MR. CAPUTO: Your Honor, if I may, can I make one
14 additional point.

15 THE COURT: Sure. I mean, I just want to
16 emphasize again, that it's not going to be a -- it's not
17 going to come down on whether or not the securities were
18 quote unquote, "Held," at LBI. I want to emphasize that.
19 So I'm not going to cut off your rights, but I'm very
20 protective, if you will, of the resources of the estate.
21 And that's always a balance. So we are where we are, let's
22 try to get to the finish line. Yes?

23 MR. CAPUTO: A brief point. Kenneth Caputo on
24 behalf of the Securities Investor Protection Corporation,
25 Your Honor. Because the briefing that will take place post

1 discovery will move this dispute into the realm of whether
2 or not the state customer claim or not, SIPC, which is a
3 party by right to every proceeding pursuant to statute --

4 THE COURT: Yes.

5 MR. CAPUTO: -- has not had the opportunity to
6 file a brief. We don't want to necessarily add to Your
7 Honor's work load, and we certainly don't aim to repeat
8 arguments.

9 THE COURT: Sure.

10 MR. CAPUTO: We will make arguments, if we can, on
11 SIPC's behalf and focused on SIPC's view.

12 THE COURT: Sure. So that dovetails perfectly
13 into the schedule, because then you will have an opportunity
14 to reply, sur-reply to both sets of points that are made in
15 response to your next brief.

16 MR. CAPUTO: Perfect. Thank you, Your Honor.

17 MR. HOFFMAN: Okay, but as long as we're clear,
18 SIPC was not in the initial briefings, so but their -- their
19 points should be limited to the discovery, just like
20 everybody else. They're not going to come out of left field
21 with new stuff.

22 MR. CAPUTO: Our points will be focused on the
23 law.

24 THE COURT: I think their points will be pretty
25 focused on the law.

1 MR. CAPUTO: Right.

2 THE COURT: And will be consistent with the
3 position that they've taken in all these cases. Remember,
4 there's very little dispute about the law. There's no
5 dispute about the law, unless the Supreme Court says
6 something else, right? What you're saying is, "I'm
7 different."

8 MR. CAPUTO: Right.

9 THE COURT: And all I'm doing is giving you a
10 chance to demonstrate that you're different. The law is --

11 MR. CAPUTO: That's all I'm asking for. Thank
12 you, Your Honor.

13 THE COURT: All right? So now, do you need me in
14 terms of an actual calendar schedule, or can you work that
15 out among yourselves? I'd like to keep it moving.

16 MR. HOFFMAN: I would be prepared, if Your Honor
17 maybe the -- would the beginning of April be okay for me to
18 file my first brief, if we could get the --

19 THE COURT: The beginning of April? It's the end
20 of February.

21 MR. HOFFMAN: Yeah. When the --

22 THE COURT: Well, when are you going to take the
23 deposition?

24 MR. SALZMAN: We think that -- well, obviously I
25 haven't confirmed with them, probably Mr. (indiscernible)

1 could be made available at a -- you know, in two weeks,
2 something like that, from now.

3 THE COURT: Okay. So why don't we say that you'll
4 file your brief two weeks after the deposition?

5 MR. HOFFMAN: Okay.

6 THE COURT: All right? And then, you can work out
7 the additional briefing, dovetailing off of that.

8 MR. SALZMAN: Yeah, thank you, Your Honor.

9 THE COURT: Okay?

10 MR. HOFFMAN: Okay, thank you very much, Your
11 Honor.

12 THE COURT: Okay, thank you. All right, what's
13 next?

14 MR. MARGOLIN: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. MARGOLIN: Jeffrey Margolin, Hughes Hubbard &
17 Reed for the Trustee. But one last LBI matter, which is
18 listed under the contested matters, Item Six --

19 THE COURT: Right.

20 MR. MARGOLIN: -- is the objection to transfer
21 Claim 787 --

22 THE COURT: Claim 787.

23 MR. MARGOLIN: -- Claims Recovery Group, LLC by
24 Mr. Caraway. I don't know if Mr. Caraway -- I believe the
25 Claims Recovery Group, LLC's counsel is in the courtroom.

1 THE COURT: Okay. Is Mr. Carraway here, or anyone
2 on behalf of Mr. Caraway?

3 MS. KANE: I don't believe so, Your Honor. Dana
4 Kane from Kelly Drye & Warren --

5 THE COURT: Yes, Ms. Kane.

6 MS. KANE: -- for the Claims Recovery Group. We
7 did -- I -- my office received a call from Mr. Caraway on
8 Friday evening after I was gone for the day. He's in
9 California, three hours behind.

10 THE COURT: Okay, this past Friday evening?

11 MS. KANE: And -- this past Friday evening, the
12 19th.

13 THE COURT: Okay.

14 MS. KANE: Yes, Your Honor. And Mr. Caraway
15 indicated during that phone call that he -- I believe he
16 might have been confused by the proceedings. He indicated
17 that he was calling regarding the claim he had against the
18 Claims Recovery Group, and that he already signed the check
19 and everything is okay. And as far as he knows, there was
20 nothing else to be done. So I can represent to the court
21 room --

22 THE COURT: Okay.

23 MS. KANE: -- that is what was said. I called him
24 back yesterday evening.

25 THE COURT: All right.

1 MS. KANE: But I did not (indiscernible) --

2 THE COURT: Okay. And he was made aware of this
3 hearing today?

4 MS. KANE: Yes, Your Honor. We filed a notice of
5 hearing. We did duly serve it on him about a week and a
6 half ago.

7 THE COURT: All right. And it also appears that
8 initially, he had indicated he hadn't received payment yet.
9 But we now also have evidence in the form of a canceled
10 check, indicating that he cashed the check.

11 MS. KANE: Yes, Your Honor. The timeline is that
12 the claim was transferred on December 11th --

13 THE COURT: Right.

14 MS. KANE: -- with both sides having signed the
15 agreement and the claimant recovery having sent the check.
16 To give Mr. Caraway the benefit of the doubt, because he is
17 an individual, I assumed that he meant when he said in his
18 papers to the Court that he had not received payment, that
19 he had not cashed the check.

20 THE COURT: I see.

21 MS. KANE: And he had, at that time, been issued
22 the check and would have received it by then. But since
23 that time, he has cashed the check, Your Honor.

24 THE COURT: Okay, all right. Well, it does seem
25 that it was a misunderstanding, and particularly since Mr.

1 Caraway is not appearing here today. We will assume that he
2 has thought better of pursuing the objection to the transfer
3 of the claim. Could you submit an order to us that disposes
4 of the matter?

5 MS. KANE: Yes, Your Honor. And I have one in
6 paper form and I can submit it electronically as well.

7 THE COURT: If you can submit it electronically,
8 and do you have contact information from Mr. Caraway?

9 MS. KANE: I have the phone number he left for me
10 and I also have his street address, so I can mail it to him
11 and files to (indiscernible) the Court.

12 THE COURT: If you could, that would be lovely.

13 MS. KANE: We will, Your Honor.

14 THE COURT: All right. Thank you very much.

15 MS. KANE: Thank you very much.

16 THE COURT: All right. So that concludes the LBI
17 calendar?

18 MR. KOBAK JR.: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. KOBAK JR.: May I be excused?

21 THE COURT: Of course.

22 MR. KOBAK JR.: Thank you, Your Honor.

23 THE COURT: Thank you very much. Good morning,
24 Ms. Marcus.

25 MR. MARGOLIN: Good morning, Your Honor.

1 Jacqueline Marcus, Weil, Gotshal & Manges, for Lehman
2 Brothers Holdings Inc. and its affiliates. That brings us
3 to the adversary proceeding calendar and --

4 THE COURT: Okay.

5 MR. MARGOLIN: -- the first matter on the calendar
6 is Lehman Brothers Special Financing Inc. versus Federal
7 Home Loan Bank of Cincinnati.

8 THE COURT: Okay.

9 MR. TAMBE: Good morning, Your Honor.

10 THE COURT: Good morning, Mr. Tambe.

11 MR. TAMBE: Jay Tambe from Jones Day with my
12 partner Lauri Sawyer.

13 THE COURT: Usually I start by saying it's good to
14 see you all. I'm not going to start that way today. All
15 right? This needs to come to a conclusion. I am a very
16 patient person, but I am out of patience for six page single
17 spaced letters at cross purposes to other five page single
18 spaced letters over two very simple issues. This is not
19 that complicated.

20 It's become complicated because I think that
21 there's a lack of will to resolve the underlying discovery
22 issues and get to a trial. So we are today going to finally
23 resolve the issues, and we are going to set a definitive
24 trial schedule. That's it. We're not going to keep doing
25 this.

1 MR. TAMBE: That's exactly what we --

2 THE COURT: Seem fair?

3 MR. TAMBE: That's exactly what we've asked for on
4 January 20th. I can start with the first issue because we
5 think it's a simple issue.

6 THE COURT: Go ahead.

7 MR. TAMBE: Are they going to invoke advice of
8 counsel in any shape or form as part of their defense of the
9 case?

10 THE COURT: And? I make a prediction. They're
11 going to say, "That depends on whether or not you are going
12 to put their good faith into question."

13 MR. TAMBE: All right, so we --

14 THE COURT: Okay?

15 MR. TAMBE: -- dial it back and --

16 THE COURT: Am I right? Yes, I'm right.

17 MR. TAMBE: So we can dial it all the way back to
18 the complaint, right? We think the case is actually a very
19 simple case, and we've gone --

20 THE COURT: I do, too.

21 MR. TAMBE: -- we've gone through all sorts of
22 details, right? (indiscernible) termination.

23 THE COURT: Yeah.

24 MR. TAMBE: We know what date this contract
25 terminated.

1 THE COURT: Yes.

2 MR. TAMBE: September 15th, 2008. One, I don't
3 think there should be any disagreement about that, but
4 that's our second issue is, they don't seem to agree even on
5 that.

6 THE COURT: Okay, but hold on that one. They say,
7 "That's our position. You don't like it, let's litigate
8 it."

9 MR. TAMBE: Right.

10 THE COURT: So I don't think there's anything more
11 to be said on that issue, on the date, time, 12th versus
12 15th issue. That's their position. You disagree. I don't
13 think there's anything more we can say about that.

14 MR. TAMBE: So we get to the -- we get to the next
15 one, okay.

16 THE COURT: Right.

17 MR. TAMBE: That's the early termination date, our
18 view.

19 THE COURT: Right.

20 MR. TAMBE: We think the contract is clear, you
21 value the terminated contract on or reasonably practically
22 after the early termination date.

23 THE COURT: That's just --

24 MR. TAMBE: (indiscernible) language.

25 THE COURT: Right.

1 MR. TAMBE: There's no scope in that language,
2 good faith or otherwise, to say, "I want to value it as of a
3 date that precedes the early termination date."

4 THE COURT: Okay. That's your position.

5 MR. TAMBE: I'm done.

6 THE COURT: Okay.

7 MR. TAMBE: And when I sit down, I can
8 (indiscernible) and say, "No," there's another
9 (indiscernible) that allows us to say we reasonably could've
10 picked a time, but that was before the early termination
11 date. They're raising that issue, now it's an issue. We
12 need to talk about that issue.

13 THE COURT: Right.

14 MR. TAMBE: So it starts on the contract inception
15 point, but then it gets into, okay, you say you acted
16 reasonably. What evidence are you going to rely on,
17 privileged matter or non-privileged issues? Up until last
18 fall, they steadfastly said, "Privileged service
19 (indiscernible), we want to get discovery on AT, all these
20 other things."

21 THE COURT: All right.

22 MR. TAMBE: We did that discovery. In
23 depositions, we find out, well, they're a little wishy washy
24 about whether they're going to invoke advice of counsel on
25 that point to support the reasonableness of their selection,

1 assuming that's valid as a contractual matter at all. So
2 with all due respect to them, they're the ones who are going
3 to invoke the reasonableness of their actions, and I think
4 they intend to rely on advice of counsel as one of the legs
5 of that stool at the 11th hour.

6 But after having taken the position consistently
7 through discovery that there was this whole body of
8 privileged information, late in the day, these are the folks
9 who say, "Well, here are documents from September 15th to
10 September 25th." Their choice, they selected it. We know
11 from the privileged law they talk about these issues
12 throughout October. And then they're saying, "We'll give
13 you these documents, but you have to agree never to argue
14 for broader waiver or any waiver." How can they do that?

15 THE COURT: Okay, but let's go back. Let's go
16 back to the issue of good faith.

17 MR. TAMBE: Yeah.

18 THE COURT: Okay? I've indicated from the outset
19 that who has the burden in this kind of case, is something
20 that you're going to have to brief, okay? I'm not giving
21 you a ruling on it. I don't know what the answer is. FHLB
22 has expressed a view that there's nothing especially
23 specific in the ISDA, and therefore re-default to New York
24 law, et cetera.

25 I don't think it's that simple, but be that as it

1 may. Okay? So they say, "Ah ha, look at some other cases
2 involving these ISDA's, right?" Look at Intel. At Intel,
3 Lehman specifically knows how to say, "Good faith is not an
4 issue," okay?

5 MR. TAMBE: Right.

6 THE COURT: You say, "Well, this is different."

7 MR. TAMBE: Yeah.

8 THE COURT: All right?

9 MR. TAMBE: Yes, it is different.

10 THE COURT: Okay. So --

11 MR. TAMBE: I can go through the reason point,
12 yeah.

13 THE COURT: Okay. So this is different. So in
14 your view, it's your view that in their view, good faith is
15 at issue, right? They said as much. You quote to me a
16 statement that --

17 MR. TAMBE: Yeah.

18 THE COURT: -- they made, I believe back in
19 October that says that the reasonableness and good faith,
20 the Federal Home Loan Bank, in choosing their time, which we
21 think is mandated by the agreement. But in choosing that
22 time, reasonableness and good faith is the key issue
23 (indiscernible).

24 MR. TAMBE: Yes, that's what they said.

25 THE COURT: That's what they said. Okay.

1 MR. TAMBE: So surprise is not an issue here.

2 They've known, they've viewed the cases including that
3 issue, now all that's left is what evidence are they going
4 to rely on to support their good faith? And if they're
5 going to rely on privileged information, we should get the
6 privileged information.

7 THE COURT: Okay.

8 MR. TAMBE: That's it.

9 THE COURT: All right. So now I think we set the
10 table and now I think I should hear from FHLB.

11 THE COURT: Good to see you, Mr. Ratner.

12 MR. RATNER: It's always good to see you, Your
13 Honor. Even with the introduction, (indiscernible), it's
14 good to see you. Your Honor, we share the Court's
15 frustration. We just think it's directed at the wrong
16 table. And let me explain it briefly why.

17 THE COURT: I was directing it at both tables,
18 okay? But --

19 MR. RATNER: My sensitivity --

20 THE COURT: Forget about my frustration, okay? Is
21 good faith an issue in the case or not?

22 MR. RATNER: Well, it depends when you ask Mr.
23 Tambe that question. And if you give me 30 seconds, I'll
24 explain what I mean. I -- we wrote the letter to you
25 yesterday that laid out the chronology here. And when I

1 stood in this courtroom on October 1st and I talked about
2 good faith being an issue, things had been happening in
3 discovery and I was under the impression, I was, that good
4 faith was being raised by them. I thought that was an
5 issue, okay?

6 This is a contract case. And they have to prove
7 all of the elements of their case. We've cited the law to
8 you on burden of proof, where good faith is alleged. So
9 when I stood here on October 1st, we thought that. And
10 then, we looked back after we were here. We lost on the
11 discovery issues, Your Honor. We lost on those.

12 We went back and we looked at the complaint. And
13 looked at other complaints. This complaint doesn't mention
14 the words good faith. It doesn't say. It says that Federal
15 Home Loan Bank did it (indiscernible). It doesn't say they
16 did it in bad faith as a whole list of other cases do. And
17 then we looked at Your Honor's decision in Intel, which had
18 come out very shortly before I stood at the podium that
19 time.

20 And in there, Your Honor pointed out that Lehman
21 wasn't challenging good faith in that case. So we say,
22 "Wait a minute. Maybe I'm wrong. Maybe they're not
23 challenging it here." So we served a contention in
24 derogatory. And they gave it -- an answer with a little bit
25 of a good faith challenge. They (indiscernible) some things

1 that they said that were challenging about good faith.

2 And then, they write a letter on January 20th to
3 Your Honor and they say, I think it's on page three, that on
4 faith is not an element of their claim. Okay. And that's
5 why in our letter of January 22nd, we said, "It appears that
6 it's not in the case." But what Your Honor --

7 THE COURT: The point is that if you're going to
8 defend on the basis that you acted reasonably and in good
9 faith, then good faith is an issue in the case.

10 MR. RATNER: To defend against what? Your Honor,
11 is the --

12 THE COURT: Against the allegation that you
13 breached the ISDA in the manner in which you applied the
14 early termination.

15 MR. RATNER: That puts the burden of proof on us.
16 Your Honor --

17 THE COURT: I am not deciding burden of proof. I
18 am deciding the existence. I am trying to ascertain the
19 existence of the issue of reasonableness and good faith in
20 this case. Is it or is it not an issue in this case?

21 MR. RATNER: If they raise it, it's an issue.

22 THE COURT: No --

23 MR. RATNER: Your Honor, if it's an element of
24 their -- the cases we cited in a letter we sent to you
25 yesterday. It makes it -- make clear we believe that the

1 party asserting a breach of contract, asserting their -- in
2 fact, bad faith that the defendant did not act in good
3 faith, that's the burden. It has to go -- has to plead it
4 and has to prove it.

5 THE COURT: You keep going back to the burden and
6 I am not going to go there. I am not going to decide ahead
7 of time who has the burden. If this problem gets solved by
8 their amending their complaint to allege an information
9 belief that the termination was not performed reasonably and
10 in good faith without prejudice to who's got the burden, but
11 we can do it that way.

12 MR. RATNER: Your Honor, let me be clear on where
13 I was going with the last step in the (indiscernible). The
14 letter that we received last Friday from Jones Day for the
15 first time said that the -- that good faith was in the
16 complaint that he served three years (indiscernible), not
17 withstanding the fact that they said on January 20th it
18 wasn't an element in their claim.

19 Your Honor, I understand what Your Honor is saying
20 about burden of proof. I'm not going to belabor the point.
21 We've laid out our arguments on that in the correspondence.
22 But we're now being put in a position where we have to
23 decide whether we're going to be defending (indiscernible) -
24 -

25 THE COURT: But the ISDA requires that the day and

1 time to solicit marketing quotations has to be selected in
2 good faith. This --

3 MR. RATNER: They say -- I'm sorry, Your Honor.

4 THE COURT: I just don't understand.

5 MR. RATNER: They say -- if they say, "We didn't
6 do that," they have to prove we didn't do that. That's our
7 position, Your Honor, and I understand that Your Honor's not
8 ruling on that point now. We've laid that out, you know, in
9 our papers, and that's why we are where we are. But Your
10 Honor, more importantly, we took what your -- what you said
11 when we were here, you know, very seriously about not
12 wanting to see us anymore.

13 And we tried very hard to come to an accommodation
14 with Lehman on this point. When you were here in November,
15 Ms. Sawyer said all she's asking for, all right, are
16 materials on September 15th, the date -- when the date and
17 time was selected by Federal Home Loan Bank. That's when
18 they made their decision as to the date and time. They --
19 she said, "We're not asking for weeks. We're only asking
20 for a very narrow thing."

21 We thought, "Okay, fine. We'll come to an
22 accommodation. We won't have to darken your doorstep
23 again." And we tried to do that. In fact, we proposed the
24 15th and the 16th, (indiscernible) confirmed on the 16th.
25 As soon as we proposed that, they wouldn't take yes for an

1 answer, they want more and then they want more. And those
2 were the negotiations that are summarized.

3 THE COURT: Well, but let's go back to the whole
4 concept that if we quote unquote "agree" that good faith is
5 an issue in the case without deciding who has the burden to
6 prove good faith or lack thereof, right, then Lehman's
7 position is that therefore, there's a waiver.

8 To the extent that you will be relying on the
9 advice of counsel, then there's a waiver. So that makes --
10 that explains, I believe, and Ms. Sawyer can certainly speak
11 for herself -- the notion that the timeframe shouldn't be
12 limited, because why should the timeframe be limited, if
13 there's advice and conversations surrounding the issue that
14 shed light on the issue of good faith in making the
15 selection? So it's -- you're either in or you're out.

16 MR. RATNER: Your Honor, the reason for that is
17 that the decision was made on the 15th of September, 2008.
18 So the question would be, what was -- was there good faith
19 in making that decision on that day? That's -- and that
20 should be the temporal scope of anything we are talking
21 about. And with that, we are prepared to do that, Your
22 Honor.

23 What we're not prepared to do, and which keep
24 pushing it back and then leave it open for Lehman Brothers
25 to claim a broader waiver on other subjects. Your Honor,

1 the only provision in the market quotation section, good
2 faith relates to (indiscernible). It relates to the
3 selection of referenced market managers.

4 THE COURT: That's right.

5 MR. RATNER: And it refers to the selection of the
6 date and time as of which the quotations speak.

7 THE COURT: That's right.

8 MR. RATNER: Mr. Tambe dated his view of the date
9 and time and saying it has to be on (indiscernible).

10 THE COURT: That's right.

11 MR. RATNER: We have a very different view and we
12 think that you will hear evidence on that. But it's good --
13 to the extent good faith is in, it's in as to that. Those
14 are the two points. That happened on the 15th of September.
15 And Your Honor, any waiver, we will be prepared to waive
16 with respect to that issue.

17 The only thing they've been challenging so far,
18 according to their contention response, is the date and time
19 we would be prepared to produce the materials on that, on
20 the 15th, and the (indiscernible) of the 16th, because
21 there's one piece that refers back to that. But in doing
22 so, Your Honor, we don't want to put a -- we don't want to
23 put ourselves in the position where we're going to be back
24 here with Lehman saying, "Oh, now they've waived on
25 everything under the sun." Your Honor, we want to get this

1 thing to trial. We want to get this thing resolved. And --

2 THE COURT: Let me hear from Mr. Tambe and/or Ms.
3 Sawyer.

4 MR. TAMBE: I don't want to give a quote with any
5 misimpressions. If you have a copy of the ISDA master
6 agreement, you can go specifically with the language. Now I
7 think some of the confusion here comes from both of us,
8 paraphrasing the language. So --

9 THE COURT: We're looking at the ISDA now?

10 MR. TAMBE: At the ISDA. If you have a copy
11 there, and I don't know if it's --

12 THE COURT: I don't actually carry one around with
13 me.

14 MR. TAMBE: Nor do I, Your Honor --

15 THE COURT: Unless they make one of those little
16 pocket sized, like the Constitution. Thank you.

17 MR. TAMBE: Your Honor, I have a Constitution in
18 my left pocket, the ISDA in my right pocket. It hasn't
19 helped very much, recently. So if we go to the definition
20 of market rotation, which I think is on Page 15 --

21 THE COURT: Yeah.

22 MR. TAMBE: And it's a long definition, but here's
23 the part on Page 16, to carry over. And it's the sentence
24 that begins, "The party making the determination will
25 request."

1 THE COURT: Yeah.

2 MR. TAMBE: Right. You can read that whole
3 sentence, and there's no mention of good faith in there, in
4 that sentence. It's in the next sentence. So the first
5 sentence says, "Ask market makers to provide its quotation
6 to the extent reasonably practicable, as of the same day and
7 time," parenthetical, "or assuming as reasonably practical
8 after the early termination date." That as of date and time
9 that you pick, in the next sentence, it says, "You have to
10 pick that reasonably and in good faith."

11 THE COURT: Mm hmm.

12 MR. TAMBE: When you have picked a time that's
13 before the early termination date, no matter how much good
14 faith you have, how much reasonableness you have, as a legal
15 matter, they'd say you don't even get that question. But
16 they're going to try and defend their breach of this
17 agreement by saying, "No, we acted reasonably." Stop right
18 there. If they don't ever rely on advice of counsel to make
19 that argument, we have no issue. But I think they wanted
20 (indiscernible) advice of counsel, and said (indiscernible)
21 advice. And our lawyers said, "X."

22 THE COURT: Right.

23 MR. TAMBE: And we (indiscernible) them that. As
24 soon as they do that on that issue --

25 THE COURT: That's right.

1 MR. TAMBE: -- no big restriction did -- that
2 lawyer says, "This is my view of the ISDA and this is how
3 I'm going to instruct the traders."

4 THE COURT: Okay.

5 MR. TAMBE: She sent that on the 15th. She says
6 that on the 16th. She may have said that on the 18th, the
7 20th --

8 THE COURT: Okay, but let me stop you there,
9 because what Mr. Ratner is telling me, as he's reluctantly
10 conceding, I think, that good faith is an issue, putting
11 aside the burden, okay? But what Mr. Ratner's saying, I
12 think that deserves a response is that once the decision is
13 made, subsequently, if there's chatter between the client
14 and the lawyer, hand wringing, second thoughts, alternative
15 theories, it's got nothing to do with anything. Right?

16 MR. RATNER: Your Honor, I think that's correct.
17 (indiscernible) --

18 THE COURT: That (indiscernible) -- you -- that as
19 of the moment the decision was made, after that, except to
20 the extent that in one instance Mr. Ratner's saying
21 something refers back, not quite sure what you mean, but be
22 that as it may.

23 MR. RATNER: (indiscernible), Your Honor?

24 THE COURT: Well, I'm just trying to draw a
25 distinction between your -- after an act occurs and then

1 there's more discussion about it, right, there are some
2 circumstances in which the subsequent discussion, which shed
3 light on the very act let me explain, right?

4 For example, you could say, "We agreed at such and
5 such time to do X." Okay? To -- (indiscernible) counsel,
6 yes. But then, if there's subsequent correspondence that
7 says, "Oh gee, maybe the agreement's not enforceable because
8 we didn't write it down, let's write it down now," then that
9 might be probative of the illegal effect of the so-called
10 agreement.

11 So there are scenarios in which otherwise
12 privileged communications, after a legally significant
13 moment of alleged decision making, there are hypothetical
14 communications that could occur after that, that I believe
15 would be discoverable and would be probative. But you're
16 right. It shouldn't be forever.

17 MR. RATNER: Your Honor, that's pretty much our
18 point. And the reason I refer to the 16th is because there
19 is an email, a communication on the 16th that confirms a
20 discussion on the date. So in candor, we said, "Your Honor,
21 that -- we would include that in our proposal." But here,
22 we're not talking about, you know, the legal effect of
23 something.

24 We're talking about state of mind, in the language
25 of, will neither be, you know, of the federal rules. We're

1 talking about it's a state of mind concept. That's what
2 existed on the day the choice was made. And was it in good
3 faith or was it not good faith when that decision was made?
4 They made a decision, acted on that basis, and was it done -
5 -

6 THE COURT: Okay. So now, are we down to -- are
7 now -- next. So our good faith, we've reluctantly agreed is
8 in the case. Advice of counsel is going to be relied on, so
9 we have an at issue waiver. Right?

10 MR. RATNER: Your Honor, we've received it on the
11 basis that Your Honor said, "Put aside burden of proof."

12 THE COURT: Put aside burden of proof.

13 MR. RATNER: As it (indiscernible) a confirmation
14 (indiscernible), but put aside the burden of proof. Good
15 faith, whether they do it or we do it --

16 THE COURT: Right.

17 MR. RATNER: -- Your Honor has said it's
18 (indiscernible) in the case.

19 THE COURT: Yeah.

20 MR. RATNER: That's our starting point.

21 THE COURT: Right.

22 MR. RATNER: Okay?

23 THE COURT: Because it's in the ISDA, not because
24 I feel like it.

25 MR. RATNER: No, no, I'm sorry. I didn't --

1 THE COURT: Okay.

2 MR. RATNER: But I did want to at some point
3 address Mr. Tambe's (indiscernible) views.

4 THE COURT: Okay, but --

5 MR. RATNER: But Your Honor, I believe that we
6 (indiscernible) advice of counsel, with respect to the
7 selection of the day and time on the 15th of September,
8 2008.

9 THE COURT: And with respect to soliciting
10 quotations from referenced market makers?

11 MR. RATNER: There's no challenge to that, Your
12 Honor.

13 THE COURT: There's no challenge to that.

14 MR. TAMBE: The identities are who -- what banks
15 they lent to were not challenged.

16 THE COURT: You're not challenging.

17 MR. RATNER: It's really only that one.

18 THE COURT: Okay, are we clear on this?

19 MS. KANE: Yes.

20 THE COURT: Yes?

21 MR. RATNER: Yes, we are.

22 THE COURT: Okay, very good. So therefore, we
23 have good faith, we have reliance on advice of counsel,
24 therefore, we have an at issue waiver, right?

25 MR. RATNER: On that one --

1 THE COURT: On that one, on that issue, okay?

2 MR. RATNER: (indiscernible) --

3 THE COURT: And therefore, go ahead. I'm sorry.

4 MR. RATNER: I -- we've left out so far the
5 temporal limitation.

6 THE COURT: And now we're going to the temporal
7 limitation. Okay? So let's resolve the temporal
8 limitation.

9 MR. TAMBE: (indiscernible). Bridget Hoffman's
10 the lawyer, I believe, that --

11 THE COURT: Yeah.

12 MR. TAMBE: -- (indiscernible) communications are
13 going to be the key ones.

14 THE COURT: Right.

15 MR. TAMBE: And we know she's communicating with
16 (indiscernible) in Cincinnati early on Monday morning.

17 THE COURT: Right.

18 MR. TAMBE: Presumably, that's when the advice is
19 given. There are other significant dates. The very next
20 day, the 16th, the (indiscernible) goes out and actually
21 replaces every single transaction at a different price than
22 the price that they had just obtained as of Friday evening.
23 So they -- there's a delta there. On September 25, they
24 have to submit their calculations statement while
25 recognizing this \$40 million discrepancy between where they

1 hedged --

2 THE COURT: Right.

3 MR. TAMBE: -- and the Friday prices. To the
4 extent conversations, did Bridget know, for example, did Ms.
5 (indiscernible) know, for example on Monday morning that the
6 markets were moving in such a direction that the advice she
7 was giving, if she had no idea where markets were, she might
8 say, "I reasonably think about (indiscernible) this
9 contract. I'm a transactional lawyer, yeah, you can do
10 this."

11 But then someone gives us some more information
12 and says, "Ms. Hoffman, is that still your place? Was that
13 reasonable for us to have done that?" I don't know if this
14 conversation took place or not, but you can see if such
15 conversations took place, if there was a re-visitation of
16 whether or not it was reasonable for them to continue to
17 rely on a Friday close, given what they had actually done
18 and what they knew, and whether they had shared that with
19 the lawyer whose advice they're relying on.

20 I think all of that -- so I can't put a strict
21 temporal line, but I can tell you on the 16th, there are
22 probative events. Up to the 25th of September, there are
23 probative events. And the last time I would say that there
24 are probative events is probably getting into October of
25 2008, when Lehman contacts (indiscernible) in the first time

1 it (indiscernible).

2 THE COURT: November, Lehman contacts?

3 MR. TAMBE: November of 2008. Lehman contacts
4 (indiscernible) to say, "This -- there seems to be a
5 discrepancy here between what you have submitted to us on
6 the 25th and what your public filings say, which is you
7 recognize this \$40 million gain."

8 THE COURT: Okay. Thank you. So Mr. Ratner? So
9 now I have this nice little binder that I've had for a
10 while. This binder of in camera documents.

11 MR. RATNER: In camera.

12 THE COURT: Okay? So now that we have clarified
13 what we've clarified, what's your position with respect to
14 producing all of the documents in this binder?

15 MR. RATNER: Those are (indiscernible). I don't
16 remember what every line item of each of those documents
17 says to the extent they will (indiscernible) to the
18 selection of the date and time, that would be part -- of
19 course, there -- I think they're the 15th. They're --
20 (indiscernible) on the 15th, we would produce those
21 documents to the extent they were (indiscernible) to the
22 selection of the (indiscernible).

23 THE COURT: What -- okay. Articulate for me again
24 the manner in which you're not challenging the selection of
25 the referenced market makers in quotations? You're

1 challenging the amount of their claim?

2 MR. TAMBE: Oh yeah, we're challenging the amount
3 of the claim. We're challenging the date as of which, yeah.

4 THE COURT: You're -- but are you challenging the
5 amount of the claim only because of the date as of which, or
6 are you challenging the calculation of the claim as a result
7 of the quotations that they got?

8 MR. TAMBE: I'm sorry.

9 THE COURT: Mm hmm.

10 MR. TAMBE: I think it's both, because good -- I
11 think like we discussed, good faith comes in two ways.
12 You're supposed to take your reference market makers in good
13 faith. To who you're going to ask.

14 THE COURT: Who you're going to ask and how you
15 ask them.

16 MR. TAMBE: And how you ask them. So the --

17 THE COURT: You're not allowed to gain the --

18 MR. TAMBE: That's right.

19 THE COURT: -- (indiscernible) market quotation
20 process.

21 MR. TAMBE: That's right. And if that's part of
22 what they did, and what we know from the documents we have
23 so far and the testimony we have is we know they
24 (indiscernible) quotes as of Friday. That's on the face of
25 their document. We know clearly that was part of

1 communication. If they skewed it in any other way, if they
2 made any other comments to the referenced market makers to
3 skew the outcome, yeah, that would be part of how we would
4 challenge the reasonableness. You can't just sort of
5 isolate it and pick out one part of it. If someone's giving
6 you advice and saying, "This is a reasonable way to conduct
7 and close our process, here are all the things you should be
8 doing."

9 We know one of them is clearly impermissible in
10 our view under the contract, but if other advice was given,
11 which was not reasonable, this would be able to put that
12 behind the shield, and only show us what they want to show
13 us. And then, it all starts with them wanting to rely on
14 advice of counsel to make their defense.

15 MR. RATNER: Your Honor, and the (indiscernible)
16 advice of counsel as to what? What Mr. Tambe is doing now
17 is he is doing a (indiscernible) of what happened when we
18 were trying to dissolve this and saying yes, and they
19 (indiscernible). When you look at their answers are
20 intentionally derogatory to the extent they haven't
21 challenged (indiscernible) --

22 THE COURT: Look --

23 MR. RATNER: It says nothing about this, Your
24 Honor. It's only about taking time. This is a new story,
25 we're hearing. And when Mr. Tambe, to the extent that the

1 communications we've referenced market markers, they have
2 that. That's a -- we're not relying on advice of counsel
3 with respect to the communication with (indiscernible). We
4 would be relying on advice of counsel with respect to the
5 selection of the date and time on September 15th, 2008.
6 There's been -- not a word was said to the (indiscernible) -
7 -

8 THE COURT: Okay. So my view, based on where
9 we've gotten to today, is that everything in this binder
10 gets produced. Do you recall, as you're sitting there,
11 what's in here?

12 MR. RATNER: Your Honor, I do not (indiscernible)
13 specifically. I hear what you're saying, (indiscernible) --

14 THE COURT: The document -- the documents in this
15 binder, and I won't reveal -- the dates on them are Monday
16 September 15th, Wolf to Hendrickson. Okay?

17 MR. RATNER: And Monday --

18 MR. TAMBE: I think they're all (indiscernible) --

19 THE COURT: Well, no, let me --

20 MR. TAMBE: One is on the 16th.

21 THE COURT: One is on the 16th, okay? Then we
22 have some transcripts. There apparently was a power outage,
23 a lot of discussion with the power outage. Ms. Wolf and
24 Carol (indiscernible). So that's the 15th. Then there's
25 Ms. Wolf and Don Abel. That's the 15th, also a transcript

1 that gets produced. Then there's the 15th at 9:24, Ms. Wolf
2 and Ms. Hoffman. That gets produced.

3 MR. RATNER: May I --

4 THE COURT: Yes?

5 MR. RATNER: May I address that?

6 THE COURT: Yeah.

7 MR. RATNER: The answer, Your Honor is, I don't
8 know without looking at it. We submitted those materials to
9 Your Honor plus the assertion that was made by Lehman with
10 respect to those documents, that they are not privileged
11 because they took place before lawyers were consulted. That
12 was based on mis-remembrance of the (indiscernible).

13 THE COURT: Right, but --

14 MR. RATNER: So the starting point, I'm sorry --

15 THE COURT: Mm hmm.

16 MR. RATNER: The starting point that we had is
17 that these are privileged documents. The question is
18 whether they're going to be waived with respect to
19 privileged documents, but they are privileged documents. To
20 the extent those documents deal with the selection of the
21 date and time, then we would agree with Your Honor that if
22 there is going to be a waiver (indiscernible) advice of
23 counsel on that subject, they would be produced. To the
24 extent they deal with other subjects, Your Honor, I want to
25 (indiscernible).

1 THE COURT: Well --

2 MR. TAMBE: Was (indiscernible) --

3 THE COURT: My view is they all deal with exactly
4 what we've been talking about today.

5 MR. RATNER: And if that's the case, Your Honor,
6 we won't have an issue with it, but I can't say until I look
7 at it, I don't know whether they're dealing with other
8 subjects. And --

9 THE COURT: Well, my view is, and I'm continuing
10 to page through them, you've got a September 15th 9:38 Wolf
11 and Don Abel. You've got September 15th, a couple of other
12 people. And then, you've got a September 16th, Wolf and Don
13 Abel. And that gets produced as well.

14 MR. RATNER: Your Honor, (indiscernible) --

15 THE COURT: So I will -- because I don't want to
16 ambush you because I'm not sure if you knew that I was going
17 to do this today, my view is now that in light of where we
18 have arrived with respect to good faith/at issue waiver,
19 that these should all be produced. So I will give you an
20 opportunity to take another look at them, and I would say,
21 let's see. Today is Tuesday the 23rd. I'd like you to let
22 me know by the end of the close of business on Friday the
23 26th in a letter with a copy of Mr. Tambe and Ms. Sawyer,
24 whether you disagree with the conclusion that my tentative
25 conclusion that they should all be produced --

1 MR. RATNER: Yeah, Your Honor --

2 THE COURT: So simply by tab number and in general
3 terms, why you disagree. All right?

4 MR. RATNER: Of course, Your Honor. The starting
5 point here is that they are (indiscernible) questions of
6 whether they're (indiscernible) in scope or --
7 (indiscernible) the advice of counsel.

8 THE COURT: That's right. My view is that they
9 are. Yes, I can see why you say they're privileged, but I
10 believe that they're now within the scope of what ought to
11 be produced. All right?

12 MR. RATNER: Thank you, Your Honor.

13 THE COURT: So now, that hasn't resolved the
14 temporal issue. Okay.

15 MR. RATNER: So (indiscernible), Your Honor.

16 THE COURT: So are we fighting about something or
17 are we fighting about nothing because I don't want to fight
18 about nothing?

19 MR. TAMBE: Nor I. The concept is pretty clear.
20 If it relates to the selection of time and date, whether it
21 was in the 15th, the 16th or some later date, if it relates
22 to that topic, it's within the scope of the at issue waiver.

23 MR. RATNER: And Your Honor, that could not
24 possibly affect the good faith of the Federal Home Loan Bank
25 on the 15th, (indiscernible) the selection. And a later

1 discussion would not be advice of counsel, that is the --
2 that (indiscernible) the selection of the (indiscernible).

3 MR. TAMBE: That's the one we (indiscernible),
4 right? If you tell Ms. Hoffman only a few facts on Monday,
5 and she gives you some advice and you say, "I like that
6 advice, I'm going to rely on that," Ms. Hoffman learns from
7 you, in a privileged conversation a week later the rest of
8 the story, as they say, and Ms. Hoffman says, "I'm shocked.
9 Why didn't you tell me this on Monday? I'm not going to get
10 to see that?" So I get to cross examine Ms. Hoffman and
11 say, "Only they shared with you all the facts with Hoffman,
12 would you have given that advice? Was that reasonable
13 advice, knowing everything you know today? Was that
14 reasonable advice that you gave on Monday?"

15 Those were all facts known to your client. That's
16 just one -- that -- I don't' know if that happened or not,
17 but that's giving you rationale as to why things have
18 happened after the 16th may well be probative, when Ms.
19 Hoffman takes the stand and is cross examined on this issue,
20 on whether she gave reasonable advice.

21 MR. RATNER: Your Honor, the issue is not the
22 advice given by the lawyer. The issue is the good faith of
23 the Federal Home Loan Bank in relying on advice of counsel
24 as part of its determination on good faith.

25 THE COURT: Well, what if the -- what if they

1 relied on the advice with respect to the 15th, and then a
2 week later, the lawyers call and they say, "You know, this
3 is a more complex question than we originally thought. And
4 we think you should do something else." And Federal Home
5 Loan Bank says, "This ship has sailed, too bad."

6 MR. RATNER: The decision on the date had already
7 been (indiscernible).

8 THE COURT: But --

9 MR. TAMBE: But, and (indiscernible) and then they
10 submit the (indiscernible) statement and (indiscernible) --

11 THE COURT: Correct, that's right. That's the --

12 MR. TAMBE: Which could possibly have been a good
13 faith submission.

14 THE COURT: That's the hypothetical fact pattern,
15 is that they make a decision, the advice then gets changed,
16 they say, "I'm sorry, we're sticking with our member. We're
17 putting in the valuation statement."

18 MR. RATNER: Your Honor --

19 THE COURT: This is privileged, right, Mr. Ratner?
20 Yes, it's privileged, right?

21 MR. RATNER: It is privileged. Your Honor, in the
22 interest of -- and we're not casting too big a
23 (indiscernible), (indiscernible) subject matter to the
24 selection of the date --

25 THE COURT: Yes.

1 MR. RATNER: -- and time.

2 THE COURT: Yes.

3 MR. RATNER: We would be prepared to go up just
4 that subject, we would be prepared to go up to the 25th,
5 which is what we came to (indiscernible) discussions with a
6 -- with Jones Day, but we don't want to be put in a position
7 where there -- they're hoping (indiscernible) thing --

8 THE COURT: Well, but the concern again, I have a
9 very strong feeling that we're fighting about nothing. The
10 concern is that picking of an arbitrary date --

11 MR. RATNER: That's the date we submitted the
12 statement, and what Mr. Tambe just talked about.

13 MR. TAMBE: (indiscernible) --

14 MR. RATNER: (indiscernible) idea.

15 MR. TAMBE: The generous offer came with, you
16 know, a lit bomb, right? I mean, it was basically saying,
17 "Yeah, you could have the documents, but you have to now
18 agree that you've never argued for (indiscernible)."

19 THE COURT: Okay. Here's what we're going to do,
20 because I've got all these other people waiting and I've got
21 people coming in for a trial at one o'clock, all right?
22 Consistent with our discussion today, which has been
23 recorded so that everybody can remember it and not disagree
24 about what was actually said, you're going to produce the
25 documents that we've described through the 25th.

1 I'm not going to say for certain, no more. If
2 there's any indication in the documents that there's some --
3 something more that ought to be produced, we'll talk about
4 it. I believe that taking you through the 25th ought to do
5 it, okay?

6 But I'm not going to definitively say that I won't
7 entertain a request for something more, if it appears from
8 the documents that there is still an ongoing, evolving
9 situation that somehow relates to the issue of good faith
10 and selecting the early termination fee. All right? So
11 that's what we're going to do. So how about taking it --
12 yeah? I'm sorry?

13 MR. RATNER: And Your Honor, again, the materials
14 to be produced will be limited to that issue.

15 THE COURT: That's right, that --

16 MR. RATNER: And (indiscernible) redacting things
17 (indiscernible) --

18 THE COURT: That's right. And we've got a record.
19 I'll so order the record. I'm not going to ask you to
20 reduce this to an order because it will be too hard, but
21 we'll so order the record so that preserves all of your
22 rights with respect to appellate issues in the event that it
23 becomes something that needs to be pursued on your part.

24 MR. RATNER: Thank you, Your Honor.

25 THE COURT: All right?

1 MR. RATNER: Yes, Your Honor. Thank you.

2 THE COURT: Mr. Tambe?

3 MR. TAMBE: I'm going to the next step, which is
4 the potential schedule.

5 THE COURT: Yes.

6 MR. TAMBE: So we have a proposed schedule. We
7 have not discussed it with them, pending this, but we have
8 something like that that's just September 19th to the trial
9 date, that I think that there may be some time
10 (indiscernible). We were happy to talk to them about our
11 schedule. We can step outside --

12 MR. RATNER: Your Honor, may I suggest that we
13 have conversations and then come back to Your Honor.

14 THE COURT: Okay, you --

15 MR. RATNER: Which Mr. Tambe and I can do.

16 THE COURT: But someone -- someone's going to tell
17 me that they want to file for summary judgment?

18 MR. RATNER: I believe that that is a realistic
19 possibility, Your Honor.

20 THE COURT: Okay.

21 MR. RATNER: And I think after, I want to do that
22 after expert discovery. We still have to deal with expert
23 reports. We have to deal with expert depositions that still
24 has to be done. We wanted to talk scheduling --

25 THE COURT: But the likelihood that this is going

1 to be able to be disposed of on summary judgment is not
2 great.

3 MR. RATNER: Your Honor, I've heard you. On that,
4 Your Honor, I understand what you're saying. We think that
5 --

6 THE COURT: You have your rights under the federal
7 rules. I'm not going to take them away. I'm just giving
8 you my impression, that this is not going to be capable of
9 summary disposition. So --

10 MR. RATNER: (indiscernible), Your Honor,
11 (indiscernible) --

12 THE COURT: September 19th sounds as if it would
13 be right around the Jewish holidays. I don't know if
14 they're early or late this year.

15 MS. KANE: (indiscernible) --

16 THE COURT: They're always one or the other.

17 CLERK: They're late.

18 THE COURT: It's (indiscernible) the Jewish
19 holidays. Look, why don't you talk and we're heading into
20 in the fall and into the winter of next year, a lot of
21 trials. So I want to get folks who are ready on the
22 calendar sooner rather than later. And this doesn't sound
23 like a whole heck of a lot of trial time, maybe even less
24 trial time than we've spent in having discovery conferences.
25 All right?

1 Will you talk to each other and contact -- this is
2 my new law clerk, Mr. (indiscernible). If you will contact
3 Mr. (indiscernible) or Ms. (indiscernible) and they control
4 the calendar and they'll give you some dates. Come prepared
5 with an estimate of how much time you will need subject to -
6 -

7 MR. TAMBE: Thank you, Your Honor.

8 THE COURT: -- subject to rights to convince me
9 that you could do it on summary judgment. Okay?

10 MR. RATNER: We will do that.

11 THE COURT: All right. Thank you very much.

12 MR. TAMBE: Thank you, Your Honor. Thank you.

13 MR. RATNER: Thank you, Your Honor.

14 MR. TAMBE: May I be excused?

15 THE COURT: Yes, you may. Thank you very much for
16 coming in. So Ms. Marcus, should we do SEQUA next or did
17 you want to do Rose Ranch next? Whatever you'd like.

18 MR. MARGOLIN: I have no idea how long SEQUA will
19 take, so I'll (indiscernible) --

20 THE COURT: Are the Rose Ranch people coming up?

21 MR. MARGOLIN: They were.

22 THE COURT: Come on up.

23 MR. MARGOLIN: Your Honor, Jacqueline Marcus
24 again. Your Honor, on the agenda, we've separated out the
25 pre-trial (indiscernible) and the motion to dismiss. And I

1 think it makes sense to reverse the order and start with the
2 motion to desist.

3 THE COURT: I agree.

4 MR. PENN: So much for the paperless society.

5 THE COURT: How are you, Mr. Penn? Yeah.

6 MR. PENN: Doing well, Your Honor. Good to be
7 here. I'm assuming you want to take appearances first?

8 THE COURT: Sure.

9 MR. PENN: John Penn, Perkins Coie on behalf of
10 the Colorado Homeowners. And I will introduce also Mr.
11 David Miller from Denver.

12 THE COURT: Hello. How are you?

13 MR. PENN: He's been admitted pro hoc.

14 MR. MILLER: Good morning, Your Honor.

15 THE COURT: Okay, good morning.

16 MR. MILLER: David Miller from Berenbaum
17 Weinshienk PC from Denver. Thank you for having me in the
18 courtroom.

19 THE COURT: Very good. Welcome.

20 MR. PENN: And Mr. Joseph Smith, who hasn't been
21 admitted pro hoc in this adversary --

22 THE COURT: Okay.

23 MR. PENN: -- but is trial (indiscernible).

24 THE COURT: Okay, very good. Okay.

25 MR. SMITH: Good morning, Your Honor. How are

1 you?

2 THE COURT: Welcome. All right. So I've read all
3 the papers. And in particular, I have read and found very
4 helpful the supplemental response that was filed by Ms.
5 Marcus at Docket 36 on February 19th. So I'd like to start
6 there, and kind of work backwards, because it does seem to
7 me that there is an issue about rightness, because this
8 could all come to nothing vis-à-vis the insurance policies
9 and therefore, visa this case, if the judgment and the
10 arbitral award come together in a certain way.

11 So notwithstanding only interesting briefing and
12 the fact that we could have a long conversation about, you
13 know, the conceivable effect test, let me put a different
14 concept to you. I think not inappropriately, Ms. Marcus
15 suggests dismissal without prejudice. But could we simply
16 not put this on hold until there's a determination and save
17 you all additional filing fees?

18 And then, once it -- once the Colorado court
19 completes its work, you can talk to one another. Hopefully
20 you would agree as to whether or not there remains an issue
21 for me to decide or for people to tell me that I shouldn't
22 decide. And if you can't agree about that, we'll have to
23 have a hearing. But I just never like to, notwithstanding
24 that it generates fees for the Court, have you dismiss
25 something and have you re-file it. I don't know if there

1 are any hidden, you know, statute or limitations issues or
2 other things like that.

3 So I don't have a formal suspense docket, but I
4 could simply say, "Nice to see you," and I'm going to not do
5 anything until we get word as to how the Colorado court has
6 decided to deal with the judgment. How does that sound?

7 MR. MILLER: May I, Your Honor, (indiscernible)?

8 THE COURT: Yes.

9 MR. MILLER: I may have Mr. Smith coming to assist
10 as well --

11 THE COURT: Okay.

12 MR. MILLER: -- because he's familiar with the
13 insurance aspects of this.

14 THE COURT: Sure, sure.

15 MR. MILLER: But this action was actually filed in
16 the middle of a trial, which is why the rightness matter was
17 raised in the first place. We have a jury verdict now, but
18 --

19 THE COURT: Right.

20 MR. MILLER: -- no actual judgment
21 (indiscernible).

22 THE COURT: Judgment, right.

23 MR. MILLER: And so, the issue of the rightness
24 comes to bear because of the fact that they filed this
25 secretly and didn't serve it on anybody in the midst of

1 trial. And then, only after the jury verdict was entered,
2 did they serve the complaint at a later date. And to have
3 this matter relate back to the date of the filing, July
4 17th, 2015, before we -- to hold it in suspense, would in
5 essence --

6 THE COURT: Yeah.

7 MR. MILLER: -- give them that complaint date, has
8 some importance vis-à-vis Colorado interpretation of
9 insurance law and where these matters get decided. And I
10 think while Ms. Marcus' supplement and suggestion that the
11 matter be --

12 THE COURT: Why -- I can't possibly know anything
13 about that. Why would that be? Why would the date of an
14 action filed in this court relating to coverage turn on the
15 date of the filing of the complaint and something under
16 Colorado law? I just can't even imagine that.

17 MR. SMITH: I think what it comes down to, Your
18 Honor, is that it was a race to the courthouse. We're in
19 the middle of trial, and (indiscernible) steps up and files
20 this declaratory judgment action here in New York.

21 THE COURT: Right.

22 MR. SMITH: Clearly, an effort to get out ahead of
23 the (indiscernible), try to insist that New York law is
24 going to govern any insurance coverage actions that might be
25 necessary filed in the verdict that we did get.

1 THE COURT: Well, what -- hold on. Why would New
2 York law govern? Whatever law governs, governs.

3 MR. SMITH: Well, we certainly object to New York
4 law governing, but that's a primary point under declaratory
5 judgment action.

6 THE COURT: Well -- but that -- does New York law
7 govern the coverage dispute?

8 MR. SMITH: We don't believe it will.

9 THE COURT: Doesn't -- what policy -- what does
10 the policy say?

11 MR. MILLER: There are, I think a number of
12 policies that are implicated by these actions. And I don't
13 --

14 THE COURT: Okay, but bankruptcy --

15 MR. MILLER: -- (indiscernible) parties have been
16 joined as well.

17 THE COURT: Okay, but we're getting -- we're --
18 see, we're getting way ahead of ourselves, okay, because
19 bankruptcy courts apply applicable state law. So just
20 because I'm sitting in New York doesn't mean that I'm
21 necessarily going to apply New York law. I'm going to apply
22 whatever applicable state law is. I assume that you would
23 rather not have a New York judge decide that issue, if you
24 want the answer to be something other than New York law.

25 We do that all the time. So that's not a problem.

1 The -- there's a bankruptcy issue that's been raised, and
2 the bankruptcy issue is the potential diminution of the
3 proceeds of the policy and the effect that that has on the
4 estate.

5 MR. MILLER: Right. And this is a very untimely
6 raising of that issue is, I don't -- I'm not going to repeat
7 what we put in the (indiscernible) --

8 THE COURT: Yeah.

9 MR. MILLER: But what's clear is that the Debtor
10 didn't -- was aware of that issue from the inception in
11 2011, when (indiscernible) responsible on motion for relief
12 from stay, and indicated therein that they are the
13 gatekeepers of the insurance policies --

14 THE COURT: Yes.

15 MR. MILLER: -- and they allow creditors or
16 parties that have non-privileged claims to give relief from
17 (indiscernible) insurance.

18 THE COURT: That's right.

19 MR. MILLER: And but not to file claims. And so,
20 we agreed and --

21 THE COURT: Right, but that's a -- but I don't
22 know if you're a bankruptcy lawyer.

23 MR. MILLER: Yes, I am, Your Honor.

24 THE COURT: Okay. But you know -- then you know
25 the drill, right? The drill is that if you want to pursue

1 your claim somewhere else, you say you'll limit your
2 recovery to insurance proceeds. Everybody reserves their
3 rights as to coverage issues. And off you go to liquidate
4 your claim, which is what you did. It's not a waiver of the
5 Debtor's right to say later or any party's right to say here
6 are the insurers that they don't have to cover.

7 MR. MILLER: Right, but there's two points there,
8 Judge. First, we didn't get just relief from the state to
9 liquidate the claim. We also got relief from state to
10 execute on and collect on the judgment. And there was
11 language in both stipulations that said that the terms of
12 the (indiscernible) --

13 THE COURT: To the policy, on the policy?

14 MR. MILLER: Yes, on the proceeds insurance
15 policies -- that's right, proceeds, policies and proceeds.
16 And the -- there's also a provision in the stipulations that
17 say that there's no terms of the confirmed plan that will in
18 any way inhibit those collection efforts whatsoever. And
19 what I was saying in the -- at the outset was that in the
20 response to the motion for relief from stay, the Debtor set
21 forth that the -- its insurance assets are substantial, but
22 not unlimited, and they'll give relief from stay to those --

23 THE COURT: Okay, so let's -- so this is all very
24 fascinating, but let's go back to the issue of, you've got a
25 jury verdict. You don't have a judgment yet. We don't know

1 if there's any live issue. Why is it that my saying, "It
2 was great to see you, go have a nice day in New York, "let
3 me know when the numbers are final and we'll see if there's
4 an issue or not. It -- and I -- we can make that without
5 prejudice to any argument you might have, although I can't
6 imagine what it is, that somehow the date of filing of the -
7 - of this action in any way should affect the outcome, which
8 I can't imagine that it would.

9 MR. MILLER: Well, we've received two relief from
10 stay orders that said basically, "Do not come here," and
11 deal with everything in Colorado and now we're being hauled
12 back the third time, after we've had a -- our experiences in
13 court, our jury trial, millions of dollars and hundreds of
14 spent in attorney's fees and extra witness fees and the
15 like.

16 And in the middle of the trial, we have a
17 secondary insurer who's not actually part of the defense of
18 Lehman in the case, okay? So they were not actually
19 involved in the lawsuit --

20 THE COURT: Okay.

21 MR. MILLER: -- (indiscernible) moderate. In the
22 middle of trial, comes and files a declaratory judgment
23 action, asking you, as a bankruptcy judge in the Lehman
24 matters, to issue a declaratory judgment relating to the --
25 what's an occurrence under the policy and (indiscernible),

1 Your Honor.

2 THE COURT: But I am not going to do that now,
3 okay?

4 MR. MILLER: I understand.

5 THE COURT: So we keep coming back to that. So
6 what's -- what is wrong with leaving this filed on the
7 docket, my not doing a single thing until I hear from you as
8 to the ultimate outcome of -- with respect to the judgment,
9 and as to whether we have a dispute of a dollar or a million
10 dollars, with respect to the policy? Because that will
11 inform what we should do next.

12 MR. SMITH: If I can, Your Honor, because once the
13 judgment does enter --

14 THE COURT: Yes.

15 MR. SMITH: -- and we have a 14 day automatic stay
16 in Colorado.

17 THE COURT: Okay.

18 MR. SMITH: After which we can immediately issue
19 (indiscernible) to all the carriers that may potentially
20 provide coverage.

21 THE COURT: Okay.

22 MR. SMITH: And start our collection efforts.

23 THE COURT: Okay.

24 MR. SMITH: Our concern is that everything is teed
25 up now, can we get it resolved? Because we don't want to

1 wait until the judgment is entered.

2 THE COURT: I'm not going to give you a -- give an
3 advisory opinion or give an opinion on an issue that's not
4 right. The moment you get your judgment, I'll put you on
5 the calendar.

6 MR. MILLER: The other thing, Judge, to consider
7 is that in essence, if you allow the matter to simply be
8 held in suspense --

9 THE COURT: The insurance carriers aren't going
10 anywhere. It's not like, you know, a defendant who's going
11 to abscond with the money. So as soon as you get your final
12 word, I will get you on the calendar as soon as you can make
13 travel arrangements. As you said, it's fully briefed. And
14 at that point, there will be a fact that I could -- if we're
15 still at that point, if it's -- if it indeed becomes right,
16 there will be a fact that I could apply to inform the
17 conceivable effect analysis. And I will hear all your
18 arguments about basically, you know, "We got relief. We
19 weren't supposed to have to come back here. We shouldn't
20 have to come back here."

21 MR. MILLER: The other point, Judge, is that by
22 holding it in suspense, and I understand the practical
23 wisdom in that, is that in some respects, it blesses the
24 premature filing and the actions are premature.

25 THE COURT: I'm not blessing anything. I am not

1 blessing anything. I am simply suggesting an efficient
2 measure that will maintain the status quo, that will not
3 enhance anybody's rights, that will not diminish anybody's
4 rights. All it will do is avoid the need for something to
5 be re-filed. That's all. And you have an open docket on
6 which you can then file a letter that tells the Court what
7 happened and what should happen next.

8 MR. SMITH: One thing that you may want to know,
9 Your Honor, is just last week I did get an email from
10 (indiscernible) trial (indiscernible) letters, a copy of it,
11 asking to state refitting in the underlying case on our
12 recently filed motion to (indiscernible). My response, and
13 (indiscernible) the trial counsel was, "I believe Judge
14 (indiscernible) Garfield County was waiting for that issue
15 to be (indiscernible), after which he'll rule on the
16 collateral source issue --

17 THE COURT: Sure.

18 MR. SMITH: -- motion for fees and costs and
19 (indiscernible) --

20 THE COURT: Okay.

21 MR. SMITH: -- judgment in our favor. So my
22 concern is now we have LB Rose Ranch (indiscernible) --

23 THE COURT: I'm not -- okay, we're not going to
24 whipsaw you, so let me talk to Ms. Marcus. So Ms. Marcus,
25 they ought not be whipsawed, right?

1 MR. MARGOLIN: Right, Your Honor, I'm just having
2 a little difficulty hearing, but I'm not --

3 THE COURT: I'm sorry --

4 MR. MARGOLIN: -- aware of the letter that you're
5 referring to.

6 MR. SMITH: So Mr. (indiscernible) emailed me,
7 asking if I would read the (indiscernible) on the fees and
8 costs. And I believe that --

9 THE COURT: Based on this? Based on the
10 occurrence of this?

11 MR. SMITH: No, just overall, (indiscernible)
12 relation to. I guess he's thinking Judge (indiscernible)
13 will enter judgment and then we can talk about fees and
14 costs.

15 THE COURT: Okay. Well, I don't want to wade into
16 that, but --

17 MR. MARGOLIN: That doesn't sound like we're
18 whipsawing them, Your Honor.

19 THE COURT: Yeah, no, I don't -- I'm not going to
20 offer an opinion about something I don't -- I don't know
21 what's typical under Colorado practice, so I don't want to
22 react to that.

23 MR. SMITH: I'm just raising the issue because I
24 think that what we have going on in the state court action,
25 which Your Honor has said we're waiting to see what happens

1 is --

2 THE COURT: Sure.

3 MR. SMITH: (indiscernible) there is trying to
4 delay getting an entry to judgment. I think that by, first
5 of all, they'll file a motion to stay any further briefing,
6 which will cause its own briefing schedule, which Judge
7 (indiscernible) would have to move on. I just think it's
8 pushing now our entry of judgment (indiscernible) farther
9 and farther down the road, which means we don't get back on
10 your docket until much, much farther down the road.

11 THE COURT: Well, but I -- there (indiscernible)
12 markets --

13 MR. MARGOLIN: Your Honor, may I just respond?
14 Because you were looking at me --

15 THE COURT: Yeah.

16 MR. MARGOLIN: And because this was a matter that
17 Rose Ranch's insurance counsel is handling --

18 THE COURT: Right.

19 MR. MARGOLIN: -- we weren't aware of that letter.
20 I don't know if there's anybody here representing AIG who
21 can respond and discuss that, but I really --

22 THE COURT: Sure.

23 MR. MARGOLIN: -- I'm at a loss on that one.

24 THE COURT: Yeah, no, I can understand that. But
25 I guess my point is that in a world in which this action had

1 not been filed, you would have to deal with that in your
2 underlying litigation, right? The --

3 MR. SMITH: Right.

4 THE COURT: Right? So to be, and I want to be
5 consistent here. So what I'm saying is, your litigation,
6 your state court litigation, consistent with the rights that
7 you got for relief from the stay, your state court
8 litigation needs to run its course.

9 And once it runs its course, however quickly or
10 slowly, the moment it's done running its course, I'll put
11 you back on the calendar, if there's still an issue ripe for
12 determination as to coverage. But I think Ms. Marcus is
13 right, I reacted instinctively because I don't like to --
14 any sense that parties are being whipsawed, but it just
15 sounds as if you're still having the litigation and I have
16 nothing to say about that. I shouldn't have anything to say
17 about that. So again, the suspense here, holding this in
18 suspense is just an efficient way of dismissing it with
19 prejudice -- without prejudice, rather.

20 MR. MILLER: Your Honor, (indiscernible) of
21 course, if you choose that (indiscernible) --

22 THE COURT: Yeah.

23 MR. MILLER: That's fine. But it seems that it
24 might make some sense, because the insurers have raised this
25 issue of potential dissipation at this point, without

1 actually getting into any specifics, that perhaps you
2 require them to provide some sort of analysis or disclosure
3 regarding what insurance is actually threatened with being
4 depleted here, that there's not going to be enough.

5 THE COURT: We're talking about insurance that
6 covers LBHI and other Debtors and affiliates. That's a --
7 that's -- this is not like a family car policy.

8 MR. MILLER: Oh we understand that. We --

9 THE COURT: Okay.

10 MR. MILLER: -- our estimation is that they have
11 \$950 million, roughly, of insurance. And so, we were
12 wondering --

13 THE COURT: But that --

14 MR. MILLER: -- how much has been exhausted so
15 that they're raising this issue?

16 THE COURT: Well, but now you're going down the
17 non-practical route. First of all, you're talking about
18 Lehman Brothers, so you're talking about claims that were in
19 the trillions of dollars, who knows, okay?

20 Secondly, we don't know if that's necessary. If
21 in -- if the judgment comes back and it's \$1,000, I suspect
22 I won't be interested in adjudicating it. The -- if the
23 number comes back at \$6 million, I still may not be under
24 the conceivable effect test, and everybody might decide to
25 go away. We don't have to keep talking about it, though.

1 We're not going to -- I'm not going to put the estate to
2 potentially unnecessary expense until we know.

3 I will say it loud and clear for the whatever
4 number time. You should take the message back and you could
5 have the record of this transcript as evidence. Nothing
6 that I've said today or nothing that I'm doing today should
7 be interpreted or construed as having any effect, my
8 offering any stamp of approval or disapproval of anything
9 that's happened or is going to happen in the Colorado case
10 or any position that's been taken by any of the parties with
11 respect to the coverage dispute.

12 It's going to be as if it didn't happen, and that
13 we're just going to be as if it didn't happen and that we're
14 just going to wait to hear from you as to when you get to
15 the end of your litigation (indiscernible) and where exactly
16 that finds you. All right?

17 MR. MILLER: Very good, Your Honor.

18 THE COURT: Okay. So I'm going to -- I will so
19 order the record in this regard so that you don't have to
20 tussle over drafting an order that reflects what happens
21 today. Does anyone else wish to be heard?

22 MR. MARGOLIN: Your Honor, just one more thing.
23 Thank you, Your Honor, for that.

24 THE COURT: Sure.

25 MR. MARGOLIN: There were a couple of things said

1 on the record that we disagree with, but it's been a long
2 calendar this morning. I know you have a trial. I don't
3 want to belabor it, I just wanted to know that if those were
4 ever issues, we would want to respond.

5 THE COURT: Okay.

6 MR. MARGOLIN: Thank you.

7 THE COURT: All right, anyone else make
8 (indiscernible) --

9 MR. HODYL: Your Honor, Rich Hoody, I'm the
10 coverage counsel for AIG. I just wanted to express my
11 gratitude for accommodating me and letting me bow in today.

12 THE COURT: Okay. Very good. Sir, did you have
13 something else?

14 MR. DAVIS: I was just going to join in the last
15 reservation. I'm Michael Davis for the AIG Company.

16 THE COURT: Sure.

17 MR. MARGOLIS: Your Honor, Brian Margolis, counsel
18 for (indiscernible). We would just say for the record that
19 we think that the -- we'd like to revisit some of the
20 rightness issues. We think there's certain issues,
21 certainly some of the exclusions that could be addressed
22 now, even in the absence of another monetary judgment.
23 That's all (indiscernible) -- that's for the record.

24 THE COURT: All right. Thank you. I've made my
25 ruling.

1 MR. MARGOLIS: Thank you.

2 THE COURT: Okay. All right. So now, is there
3 anything more we need to do on this today, Ms. Marcus?

4 MR. MARGOLIN: No, Your Honor. I think that
5 concludes the --

6 THE COURT: Okay.

7 MR. MARGOLIN: -- that adversary.

8 THE COURT: Okay.

9 MR. MARGOLIN: Oh I'm sorry, pre-trial conference,
10 it seems premature like, where we are.

11 THE COURT: That's what I mean, right, right.
12 Okay, so we will wait to hear from you one way or the other.

13 MR. MARGOLIN: Thank you, Your Honor.

14 MR. SMITH: Thank you, Your Honor.

15 MR. MILLER: Thank you, Your Honor.

16 THE COURT: All right --

17 MR. HODYL: Thank you.

18 THE COURT: -- now Ms. Marcus, we have another
19 matter on the calendar?

20 MR. MARGOLIN: We do.

21 THE COURT: SEQUA?

22 MR. MARGOLIN: And (indiscernible) for a moment?

23 THE COURT: There they are.

24 MR. MARGOLIN: Okay, there they are. May we be
25 excused, Your Honor? Thank you. Yeah, hello.

1 MR. STRONG: Hi, good morning, Your Honor.

2 MR. MARGOLIN: Good morning.

3 MR. STRONG: Fletcher Strong, Wollmuth Maher &
4 Deutsch, counsel for Lehman Brothers Special Financing Inc.
5 and Lehman Brothers Holdings Inc. in the underlying
6 adversary proceeding against (indiscernible) SEQUA
7 Corporation. We are here on a pre-trial conference for the
8 adversary proceeding, just to give the Court some quick
9 background on the case.

10 THE COURT: Sure.

11 MR. STRONG: This case concerned the determination
12 of three transactions between the parties, the interest rate
13 swap and two interest rate (indiscernible) that were
14 terminated --

15 THE COURT: Right.

16 MR. STRONG: -- on the bankruptcy filings of LBHI
17 and LBSF. Specifically, the parties' dispute arises from
18 the calculation of the termination payments, as -- well,
19 under the parties' agreement, which LBSF alleges was
20 undertaken in a commercially unreasonable manner. The
21 parties' dispute was originally subject to mediation, which
22 took place in 2012, unfortunately, which did not result in a
23 resolution of the case.

24 THE COURT: Okay.

25 MR. STRONG: Accordingly, Lehman went forward and

1 filed the underlying complaint in this action. Recently,
2 SEQUA filed an answer and counter claim seeking attorneys
3 fees and costs, which Lehman will respond to the --

4 THE COURT: Sure.

5 MR. STRONG: -- combined answer in due course.
6 Nevertheless, we are here. We had a scheduling order
7 entered in the case--

8 THE COURT: Okay.

9 MR. STRONG: -- providing a discovery schedule and
10 dispositive motion schedule. And while we're hopeful that
11 settlement negotiations can continue and this matter may be
12 settled, we are prepared to go forward with discovery at
13 this time, unless there are any questions.

14 THE COURT: All right, so dispositive motions, as
15 always, as subject to the local rule that you have to seek -
16 - you have to write a letter for 7056-1?

17 MR. STRONG: Yes, Your Honor.

18 THE COURT: Okay.

19 MR. STRONG: And that's actually subject -- that's
20 in the scheduling (indiscernible).

21 THE COURT: Sure, okay. We've -- we always make
22 sure that it is. Would you -- so you attempted mediation
23 with one of the panel, with Lehman mediators, if you will?

24 MR. STRONG: Yes, Your Honor. My law firm was not
25 a party to that mediation, was not --

1 THE COURT: Okay.

2 MR. STRONG: -- representing Lehman for that
3 mediation.

4 THE COURT: Okay.

5 MR. STRONG: But yes. There was a mediator.
6 There were ADR notices and responses --

7 THE COURT: Right.

8 MR. STRONG: -- that were issued.

9 THE COURT: Right.

10 MR. STRONG: And then, mediation took place in
11 2012, and then it did not, you know, result in any sort of a
12 resolution.

13 THE COURT: Do you think -- and I don't know
14 enough to have a view, I'm just asking the question, do you
15 think it would be useful to have another round of mediation,
16 for example, with someone who comes to work in this
17 building?

18 MR. STRONG: We would be open to another
19 mediation. We'd have to discuss the client, but you know,
20 we're hopeful, as I said, (indiscernible) --

21 THE COURT: I mean, it kind of depends on exactly
22 what the issues are, because the -- sometimes, the issues in
23 these types of cases can be pretty highly technical.

24 MR. STRONG: The issues are highly technical in
25 the sense that it's the question of whether the actions that

1 were performed to calculate the termination pending was done
2 in a commercially reasonable manner.

3 THE COURT: Sure.

4 MR. STRONG: However it's a pretty discreet issue
5 that would, you know, we don't suspect would get out of
6 control with, you know, discovery and (indiscernible) --

7 THE COURT: Right. Well, I guess the -- I don't
8 know if (indiscernible) mediation would be a good fit unless
9 the parties were inclined to be talking about what I would
10 characterize as an economic settlement, as opposed to, you
11 know, a discussion of the merits. So --

12 MR. STRONG: We would welcome the Court's
13 consideration of that and we would certainly be open to
14 mediation on (indiscernible) --

15 THE COURT: All right. Well, why don't you
16 proceed ahead and you know, keep it in mind? And if at any
17 point you think it would be useful to have a sitting judge,
18 which is my way of saying for free, spend a couple of hours
19 with you, I'd be happy to ask --

20 MR. STRONG: Okay.

21 THE COURT: -- someone to do that.

22 MR. STRONG: Very good, thank you, Your Honor.

23 THE COURT: All right? You folks want to add
24 anything?

25 MR. BASDEKIS: Just very briefly, I'm Thanos

1 Basdekis on behalf of SEQUA, along with my law partner Nick
2 Johnson. Judge, we have a pro hoc (indiscernible) motion
3 for Mr. Johnson, which --

4 THE COURT: Okay.

5 MR. BASDEKIS: -- I think is on the docket.

6 THE COURT: Okay.

7 MR. BASDEKIS: It hasn't been ruled on yet,
8 whenever you get a chance, that'd be great.

9 THE COURT: Sure. Okay.

10 MR. BASDEKIS: That's it.

11 THE COURT: All right. So we will hear from you
12 when we hear from you.

13 MR. STRONG: Great. Thank you, Your Honor.

14 THE COURT: All right, thank you very much. Have
15 a pleasant day.

16 MAN: Thank you, Your Honor.

17 (Whereupon these proceedings were concluded at
18 11:54 AM)

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I N D E X

RULINGS

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya Ledanski
Hyde

Digitally signed by Sonya Ledanski Hyde
DN: cn=Sonya Ledanski Hyde, o=Veritext,
ou, email=digital@veritext.com, c=US
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Date: February 24, 2016